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September 3, 2020

## VIA ECF

Honorable Margo K. Brodie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

## I. Background

I have continued to receive call and videoconference log data from both parties. I continue to have active discussions with the Federal Defenders, Inc. and their

counsel and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).<sup>1</sup>

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.
3. The parameters of the completed site visits at the MDC and MCC.

## **II. Telephonic Contact**

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

### **A. MCC**

According to the information I have from MCC, MCC scheduled 86 calls between August 27 to September 2, 2020. 80 calls were completed and six were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders did not report that there were any calls that have been pending for longer than 48 hours.

### **B. MDC**

Data on calls scheduled at MDC was compiled this week, but technical issues prevented it from being transmitted to the mediation team in time for inclusion in this report. I will file a supplemental report with that data.

## **III. Videoconferencing**

### **A. MCC**

According to MCC records, there were 20 videoconferences scheduled to take place between August 27 to September 2, 2020. 13 were completed as scheduled, one was rescheduled, and six were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders did

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<sup>1</sup> I held a joint mediation call with the parties and another separate call with the government team on September 2, 2020.

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not report that there were any VTC requests that have been pending for longer than 48 hours. Additionally, Federal Defenders report some technical issues this week.

**B. MDC**

Data on VTCs scheduled at MDC was compiled this week, but technical issues prevented it from being transmitted to the mediation team in time for inclusion in this report. I will file a supplemental report with that data.

**IV. Site Visits**

In-person legal visits at the MDC are currently scheduled to resume next Thursday September 10. The MDC has advised that counsel should request a legal visit through a designated email address and submit requests 72 hours in advance, although they will strive to accommodate later, urgent requests as well. The MDC has also committed to maintaining the current schedule of telephone and VTC access during the first few weeks of in-person visiting. As was discussed at the status conference of August 21 the MDC began providing in-person visits on a limited basis the week of August. Those initial in-person visits generated press attention and led to discussion among the parties during the mediation process. Both parties have expressed their views in their Status Reports and in our mediation call. Both sides are in agreement on the need for continued communication to prevent future such issues. I will work to facilitate that communication through the mediation process. In addition the parties continue to discuss the remaining open issues from the MDC site visit.

A site visit to the MCC was held earlier today. Present were Mr. Hecker, Ms. Vondornum, Mr. Ricco, Ms. McFarland, Mr. Oestericher, Mr. Finzi and Mr. Nasser. The group was able to visit and view the arrangements in the main visiting area and a smaller group was able to visit and view the arrangements in the SHU. Plaintiffs have provided a summary of issues discussed and open questions to the mediation team and the government. I will work with the parties to have discussion on those open issues.

Respectfully,

/s/ Loretta E. Lynch  
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink  
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